

COMMISSIONERS APPROVAL

GRANDSTAFF *CG*

ROKOSCH *JHR*

THOMPSON *AT*

CHILCOTT *g*

DRISCOLL *W*

PLETTENBERG (Clerk & Recorder)

Members Present..... Commissioner Carlotta Grandstaff,
Commissioner Jim Rokosch, Commissioner Alan Thompson, Commissioner Greg
Chilcott and Commissioner Kathleen Driscoll

Date.....October 7, 2008

Minutes: Beth Perkins

► The Board met for the following administrative matters:

- Administrative Assistant Glenda Wiles reviewed the Safe Kids Safe Coalition grant. She stated there is a request to move monies within the budget from Ivy Stirling in order to cover salaries. Glenda has checked with the State DPHS and they have no problems with the transfer. The Board stated they had no issues making those budget transfers as long as the State concurs with that request.
- Commissioner Grandstaff stated she received a call from Public Health Nurse Judy Griffin regarding the newly hired Health Officer Carol Calderwood.
- **Decision on resolution for speed limit sign for N. Sunset Bench:** Commissioner Driscoll gave a brief update. Kathy Frasier stated she sent Commissioner Driscoll a copy of the law regarding a traffic study not being required for Ravalli County to issue a speed limit study. She stated there have been 3 accidents in the past month. She stated the Road Department brought out a grader truck but did not finish the job and the day after they fixed it another vehicle went into the ditch.

Commissioner Grandstaff stated she spoke to Senator Laible to sponsor legislation for maximum speed limit of 35 mph on gravel roads which was previously removed. She stated the language is to set the speed limit on county roads to 50 mph. She stated she cannot accept that speed limit. Commissioner Driscoll stated she has written information regarding her research of law for the speed limit sign. Kathy requested a "Maximum Speed 35 mph" sign be installed.

Commissioner Thompson stated years ago there was a 35 mph limit on all county roads. The Deputy County Attorney advised if someone was going the limit and got into an accident, the county would be liable. The issue is there are some straight gravel roads where people are going 50 to 60 mph. He stated Kathy suggested a maximum speed which he did not think of previously. He would recommend consulting with legal counsel for any liability issues. Commissioner Chilcott stated maximum speed and speed limit express the same thing. Commissioner Rokosch stated in the last meeting with David Ohnstad, he stated there is a constant shifting of conditions on gravel roads which cannot justify a speed limit. He asked if a traffic study has been done to every road requesting a speed limit. Commissioner Thompson stated it would start a nightmare with some gravel roads being straighter than others. With icy roads in the winter time, having a posted speed limit makes the County liable. He recommended consulting legal counsel. Commissioner Driscoll stated this is a problem of public safety and it needs to be addressed. It makes the County more liable because they now know about it.

Senator Jim Shockley stated the County should get over the liability issue. He stated it is logical to not drive 70 mph in icy conditions. The County is not liable for the weather. Commissioner Rokosch stated the driver needs to make the assessment to drive with care in bad road conditions. He stated he would like to see true assessment of what exactly is the liability of the County. Commissioner Chilcott stated the advice came from both the insurance carrier and legal counsel at the time for deteriorated road conditions. Commissioner Grandstaff asked the Board how they would like to remedy the situation. She stated she believes the Board cannot issue a speed limit sign for one gravel road and not all gravel roads. Kathy stated the law states the Board of Commissioners has the authority to issue speed limits for all county roads. Commissioner Thompson stated he would have to consult with Road Department and legal counsel. Commissioner Rokosch stated he would be willing to issue a request to the County Attorney's Office for a general county speed limit posting of 35 mph. Commissioner Driscoll read the information compiled by Kathy to the Board. Commissioner Chilcott asked if this has to be done by Ordinance and if so the Board is required to have two public hearings. **Commissioner Chilcott made a motion to pursue the opinion of legal counsel on requirements to implement speed limits on gravel roads within the jurisdiction of the County. Commissioner Driscoll seconded the motion and all voted 'aye'.**

- Approval of Airport Lease #329: **Commissioner Thompson made a motion to approve Airport Lease #329. Commissioner Chilcott seconded the motion and all voted 'aye'.**
- Discussion and possible decision for Resolution No. 2291 to Adopt Citizens Right to Vote on Zoning: Commissioner Chilcott stated he is requesting this be done as an Ordinance. Commissioner Grandstaff suggested Commissioner Chilcott review his ordinance and resolution and then Commissioner Rokosch can review his

resolution. Commissioner Chilcott stated the Board has heard from numerous citizens about lack of trust on the Citizens Right to Vote on Zoning. He suggested going through the public process for an ordinance to instill full process and build confidence to take zoning to a vote. He stated within the draft ordinance he defined what an amendment is and what it would mean. He stated he followed Montana Code for the remainder of the drafting of the ordinance. He stated it includes being placed on the ballot for full public vote. It is similar to the draft resolution offered. Commissioner Thompson questioned the second page where the second paragraph talks about Commissioners pay and attorney fees. Commissioner Driscoll expressed her concerns with liability of the County. She asked what the cost of adopting this ordinance would be. Commissioner Chilcott stated the ordinance states if it is violated the County would be responsible for legal fees. Senator Shockley stated the payment of legal fees usually have to be specified within a contract. Commissioner Chilcott stated he is providing this as a draft for legal review to have two public hearings as required by law. Commissioner Rokosch stated there are some concerns with the language and the ability to have latitude to remove language based upon the adoption of zoning regulations. He stated it is overly restrictive for the ability to make adjustments as needed. Commissioner Chilcott stated anything the Board needs to do to alleviate the concerns of landowners should be implemented.

Commissioner Rokosch stated with his resolution, it can be adopted as an ordinance as well for public participation. He also stated his resolution can be adopted today to show the intent of the Board to allow a vote on zoning. Commissioner Rokosch stated what he is proposing is to continue to work through public process and involvement and the Board hold hearings and adopt zoning regulations and maps, however, to defer administration, implementation or enforcement of any regulations and maps until approve by the citizens at the next scheduled election. The differences are the clarification by the Board, through the public hearing process the specifics on zoning regulations and maps. Voters would need to do their homework prior to voting. He stated the voters also deserve to know where their individual Commissioners stand on the maps and regulations prior to casting their votes. Commissioner Driscoll questioned having Darby excluded from the process. Commissioner Chilcott stated that was at Darby's request through the straw poll vote.

Commissioner Grandstaff stated it does not make a difference whether the language for Darby is in there or not. It is moot. Commissioner Driscoll expressed her concern with the total exclusion of Darby from any future participation. Commissioner Chilcott expressed his concern of the lack of clarification of an amendment with Commissioner Rokosch's draft resolution. Commissioner Rokosch stated he would be willing to add that language regarding the amendments. Commissioner Grandstaff stated she is in favor of Commissioner Rokosch's resolution since it is cleaner and clearer than Commissioner Chilcott's draft and it also accomplishes Commissioner Chilcott's goal.

Commissioner Chilcott discussed his draft's "therefore" language. Commissioner Rokosch stated there is significant interpretation as elected officials to administering the laws of the land and regulations adopted by the County to ensure their implementation. That includes the ability to adjust them as needed and he does not think Commissioner Chilcott's allows that. Commissioner Chilcott stated his draft allows adjustments as in housekeeping. Commissioner Thompson stated he is glad the Board is giving the citizens the right to vote on zoning. The Growth Policy should not be repealed for the sake of allowing a vote on zoning. He stated he would be comfortable with more public process with an ordinance. Commissioner Driscoll stated voting on zoning washes out any doubt by the citizens. When dealing with zoning, it helps with tax dollars. She is concerned of using funding that is not as clean as it could be. She stated she does not think Commissioner Chilcott's draft is clean and clear. It needs to be simplified. She stated Commissioner Rokosch's draft is too simplified. She would like to see more input.

Senator Jim Shockley stated with Commissioner Rokosch's draft there is a problem with the second paragraph. He stated the Board could adopt both the resolution and an ordinance. In order to repeal the ordinance, it has to go through public process. An ordinance will give more creditability. The Board needs to give citizens the vote on zoning. Passing an ordinance is the way to go. Commissioner Rokosch stated he is willing to adopt his draft resolution as an ordinance to give the public the best assurance as they can. He stated Commissioner Chilcott's draft ordinance does not state when the citizens get to vote and his does. His draft gives five year ability for citizens to vote on amendments and to allow no implementation of zoning and maps prior to their approval by a citizen vote.

Commissioner Grandstaff further reviewed language within Commissioner Rokosch's draft specific to implementation of zoning and the next scheduled election. Commissioner Rokosch stated if the voters do not approve a measure, you have to determine why it is voted down. He discussed the language of regularly scheduled election. She further reviewed regulations and maps language.

Commissioner Grandstaff opened public comment.

Planner John Lavey stated it could be clearer on what would happen on those amendments outside of the five year allotted time. He expressed his concerns with administration.

Vanessa Morrell questioned whether other zoning would be included such as streamside setbacks. John stated it is a question of clarity.

Dallas Erickson stated there are two differences in these. Under Commissioner Chilcott's draft, it cannot be enforced until after election. It needs to be addressed.

Dan Floyd stated this is the right thing to do. People cannot regulate zoning until maps come out and having both in place prior to people looking at it is great. He stated by doing a Resolution it has no enforcement. By ordinance, it will not be done until after election. It will be a question if the Board is doing this to take the focus off of the vote to repeal the Growth Policy. He stated he does not know if there is something to put into place prior to election. He stated he sees streamside setbacks as another form of zoning. He stated he believes any sunset of zoning should be included in this attempt. There is a problem in the bigger picture with the anti-zoning groups. Commissioner Grandstaff stated the Board can make the statement they agree with the concept of both drafts and then send it to the County Attorney's Office for review.

Senator Jim Shockley stated he does not know why the Board can't do both a resolution and an ordinance. It would show the people the Board is moving in the right direction. He suggested including streamside setbacks in one of the whereas. The people don't want any wiggle room. Commissioner Driscoll discussed the language with the word "any". Senator Shockley stated if the Board wants credibility, they are going to have to make it firm to carry support.

Jani Summers stated two weeks ago Commissioner Rokosch was opposed to allowing citizens right to vote on zoning until after it was adopted. Why? Commissioner Rokosch replied it would be a trial run to give people a clear picture of any complications of administration and what was adopted. He stated to date it has become a trust issue of what might happen with enforcement. It is more important for citizens to have trust.

J.R. Iman stated there are a couple of things to be realized. The horse is out of the barn. He stated if you take the history of this Board, Darby made the election by two days. Before the next election, Lone Rock or any other school district may opt out and then what? The credibility issue is huge. He then stated Commissioner Chilcott's draft is more clear and specific. He stated in discussion, starting with zoning controlling every aspect of land and the second is streamside setbacks. Commissioner Chilcott's draft addresses the problems with Draft C. He stated the first section would be general zoning, the second section would be streamside setbacks, and the third section would be Highway 93. There is no schedule of what the Board is planning to do. He requested the Board to think about how this would progress and getting enough of the people to agree by showing faith and consistency. He stated he does not believe the Board can gain credibility within 10 days.

Dan Floyd stated if the new Commissioners would submit a letter of resignation if this draft is not adopted then that would take care of the problem.

Commissioner Chilcott made a motion to submit the draft ordinance proposed by him to the County Attorney's Office for review and request to

make it a top priority and as amended today. Commissioner Thompson seconded the motion. Commissioner Rokosch requested an amendment to include his draft as well and for the County Attorney's Office for the merging of the two drafts. All voted 'aye'.

Commissioner Rokosch made a motion to approve his resolution No. 2291 with the following changes: The second whereas clause for the County to consider permanent countywide zoning; The third whereas to replace "and" with "or"; and resolution part to change the word "general" to "regularly scheduled" and add the word to sentence that before the last sentence to add the language on number four to read "citizen initiated amendments" be considered at any time "and" the maps proposed by the County during the review process must be approved by the voters at the next regularly scheduled election following review". Commissioner Chilcott seconded the motion and all voted 'aye'.

- **Amendment to Groundwater Vulnerability Grant: Lea gave an overview of the Groundwater Vulnerability grant. Commissioner Chilcott made a motion to appoint Lea Jordan to the Tri-State Water Quality Council and attend the meetings. Commissioner Rokosch seconded the motion and all voted 'aye'. Lea stated the study is extending the deadline. Commissioner Chilcott made a motion to approve the extension. Commissioner Rokosch seconded the motion and all voted 'aye'.**

► **The Board met for discussion and decision on CAD System and Logisys 9-1-1. Present were I.T. Director Joe Frohlich, 9-1-1 Director Joanna Hamilton, Sheriff Chris Hoffman and County Attorney George Corn.**

Commissioner Grandstaff gave an overview and stated there were some problems with the Logisys system. George stated there are several problems with maintenance and function with Logisys.

Joe stated he drafted a letter regarding Logisys summarizing the problems to date since I.T. took over the system. He stated their support has been spotty at best. There have been some good people at times, but due to turnover staffing has not been consistent. He stated it is a full time position for maintenance. He stated it is difficult to support those needs and that of regular duties. He stated Missoula looked at replacing the Logisys system and found it to be too expensive and they do have a full time person for maintenance.

Joe stated with the frustrations of the dispatchers and the Sheriff's Office, he recommended looking for other options. If it is Logisys, he would recommend additional training for I.T. Staff and 9-1-1 Staff. George stated other counties have had similar problems with Logisys. Chris stated they have done everything possible to get the service from Logisys as promised. Highway Patrol had Logisys and went with something else. Commissioner Rokosch asked what the contract with Logisys states for service. George

replied it would not be worth it to sue for a level of service, but rather to recuperate some of the cost of the system.

Marty Birkeneder stated from one class to another there were different instructors and the quality of the training provided is inadequate. George stated any time with a possible breach of contract the Board should have the contractor come down to address concerns. Marty suggested looking at the annual contract fees. George suggested a letter to Missoula to come forth to join Ravalli County for a potential lawsuit.

Commissioner Grandstaff asked how the Board would like to proceed. Commissioner Chilcott stated it would strengthen the position of the Board by having Logisys come down to meet to address the concerns and problems. Commissioner Rokosch asked Joe to contact the highest person available at Logisys for this meeting. He also stated they should be informed the County will be investigating other possibilities and to put out a letter to inform other counties of the potential lawsuit with Logisys. Sheriff Hoffman suggested contacting Butte-Silver Bow and Highway Patrol for information. Commissioner Grandstaff directed Staff to contact the CEO of Logisys to set up a meeting. Commissioner Chilcott requested Marty to draft a letter to the CEO and forward it to Staff for signature and scheduling. The Board concurred. Further discussion followed regarding the need for additional affected staff be present for the meeting to capture all the issues.

► The Board met with Victor Park District to discuss the amenities agreement for the highway. Present were Victor Park District members Jessie Cavill, Jim Webb and Jack Barber.

Jessie stated they received the first bill from Empire Landscaping and it was out of their budget. She stated they met with Roger DeHaan and Anne Hayman to review the bid from Empire Landscaping and found their bid to be high. Jessie presented the Board with their current balance as well as their proposed budget. She stated they do have money in savings to cover the overage from Empire. Jessie stated in the future they will have to go back to the taxpayers for additional money or go back to entities such as the Garden Club or Farmers State Bank for help with volunteer labor or funding. She stated they are ready to sign the amenities agreement but would like to discuss a few things. She stated within the agreement with Stevensville, on the second page, the State will be paying for the maintenance of the asphalt. That is not written into their agreement and she would like it added. Jessie stated in response from Shane Stack of MDOT, that answer was not clear. She stated she is not requesting anything that has not been promised to other towns in the county.

Commissioner Rokosch suggested adopting the maintenance language for the asphalt in this agreement.

Commissioner Grandstaff left the meeting at this time due to another scheduled event.

Jim stated the Victor Park District has worked the issue over for the past few months and are now ready to move forward. Commissioner Driscoll stated she is proud of the Victor Park District for working well together through their transition period.

► The Board met for approval of 08-09 renewal for STEP traffic safety program with Sheriff's Office. Present was Marty Birkeneider.

Marty gave an overview and stated there is an adjusted amount. She stated she drafted a brief one paragraph page to assign authority for Sheriff Hoffman to be the signatory authority on the grant.

Commissioner Chilcott made a motion to execute with the Chairman's signature for the approval of 08-09 renewal of STEP Traffic Safety Program in the amount of \$10,000 and to designate Sheriff Hoffman as project director. Commissioner Driscoll seconded the motion and all voted 'aye'.

► The Board met for a discussion and decision with Civil Counsel on the status of Stevi Airport Road. Present were County Attorney George Corn, Terry Nelson, Marie Arnott, Brian Potton, Mike Grennel and several citizens. Commissioner Driscoll was not present for this meeting.

George gave an overview and reviewed the minutes of the past meeting. He stated the matter was left with Ms. Arnott consulting the landowners to the agreement. Marie Arnott stated the agreement was not settled due to signing off on any liability with all issues with Terry Nelson not just the road. Marie stated she has been trying to get a meeting with the Commissioners for awhile now and requested a meeting through George Corn. George read his memo to the Commissioners of the conversation he had with Ms. Arnott.

Brian Potton stated he has two wells that run 4 gallons per minute. He stated at the time, this was an acceptable agreement to band-aid the road. Nothing has been done to date as promised. He stated this subdivision has completely deteriorated the road. He has concerns of replacing these wells. He requested to view the tax records of this property to ensure the money went into the grandchildren's accounts as it was supposed to. He stated he has sent multiple correspondences to both County Attorney's Office and Commissioners without any response. Nothing has been done to this road. He stated he has apprehension on signing off for \$20,000. The cost of replacing the well is over that. He further discussed the 30 day limitation to make a decision.

Marie read the settlement agreement offered. Brian gave some additional background with the previous agreement and the survey being stamped by Terry himself. He stated Terry developed previous land and knows the process and it is a clear case of evasion. George replied no one is forcing the landowners to sign anything.

Millie Guest asked what the liabilities of signing the agreement are. Brian asked what the exact ramifications are. George replied they are giving up the right to sue over water and

the subdivision and any future claims. Claims can be satisfied by agreement and the exemptions were legal and proper and Terry agreed to pay in lieu for any future claims. Commissioner Grandstaff requested coming up with a workable agreement. Brian directed a question to George to giving up future claims and what exactly it would entail. George explained it would include any future divisions of land, water issues, road issues, and then requesting having Planning staff to include any additional circumstances.

Mike Grennel asked what “all the landowners” mean? He stated some landowners are living in Brazil. George replied it is the people on the list for the agreement.

Commissioner Rokosch stated there needs to be additional effort by the Board to remedy the situation. There were several attempts by the prior commission to refine family transfers and subdivision exemptions. He stated this current Board is working on refining the regulations for family transfers and subdivision exemptions. He stated there are the same amounts of lots being created through subdivision exemptions and in actual subdivisions. He stated the Board has explored with the County Attorney’s Office every angle and the agreement is lawful. He stated the question is now adequate resolution for the landowners. He is encouraging the landowners to realize the law and the offer on the table. Commissioner Grandstaff stated she is very sympathetic to the landowners. She stated the Board needs to come up with a way to resolve this conflict and address the issues that the landowners are signing off on. Brian stated the issues identified are road, water, utilities, views, and he would like to know what others exist that he is signing off on. Marie stated there is another neighbor that may at some time down the road decide they have an issue and not want to sign.

Mike Grennel stated Attorney David Markette took five months after the first letter was sent to address it. He stated if the landowners settle, there has to be a time frame.

Commissioner Chilcott stated he is not sure why the County is part of the settlement. Terry replied the County is the driving force behind the neighbors. It was a complaint from the neighbors that initiated it. Brian stated the issue of how they got here can be kicked around all day, the fact is they are here and the majority of the landowners are present. His concern is giving up something that may arise in the future. Commissioner Grandstaff asked Brian if it was ok to consult the Planning Department to list the potential concerns for the landowners. Brian stated the answer given is satisfactory to him. George stated by law he represents the County. There is time to have an attorney review this and raise any concerns.

Mike stated there isn’t thirty days. The letter was issued September 19th therefore the deadline is October 19th. Mike asked Terry if it is his intention to opt out of the agreement if the deadline is not met. Terry replied he pays for his attorney’s advice and would go along with it. Brian discussed where the money would go and where the check would be deposited. He stated there is a road association with a checking account. He asked if George would make the provision for the account and are they allowed to deposit it into their checking account. George reviewed the last sentence of where the money is to go. Brian asked the Board if they would designate the road association for the

implementation of these funds. Commissioner Grandstaff suggested going into an agreement with the Road Department for free labor if they provide materials. Commissioner Chilcott replied he has some concern with this being a private road. The Board agreed to appoint the road association to be the designee.

George stated when the agreement is signed; payment is expected within 10 days. Further discussion followed regarding signatures needed to execute the agreement. Marie stated there is one signature needed and the person is in the room. Brian stated they are not willing to up the offer or change the agreement. The landowners are not going to get a better deal. Marie requested a five minute recess to discuss this with the landowners.

Commissioner Thompson left the meeting at this time due to another scheduled item.

Marie told the Board the landowners are in agreement and will settle.

Commissioner Chilcott made a motion to sign the settlement agreement between Terry Nelson, the landowners of Stevi Airport Road and the County. Commissioner Rokosch seconded the motion and all voted 'aye'.

Mike questioned what happens with the check. Commissioner Chilcott replied the check will be received by Accounting and then a claim will be made to disperse the funds to the Road Association.